

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

RHONDA JEAN ARMSTER AND
D'AREA IGHO-OSAJIE,
Plaintiffs

vs.

UNKNOWN DRIVER,
AMAZON LOGISTICS INC., AND
WANAAG TRANSPORT INC.,
Defendants.

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CIVIL ACTION NO.: 3:22-cv-01150

DEFENDANT AMAZON LOGISTICS INC'S NOTICE OF REMOVAL

TO THE HONORABLE UNITED STATES DISTRICT COURT:

NOTICE OF REMOVAL

COME NOW Defendant Amazon Logistics, Inc. (known as "Amazon") pursuant to 28 U.S.C. §§ 1332, 1441, and 1446, and hereby respectfully petitions this Court for removal of the above-entitled action to the United States District Court for the Northern District of Texas, Dallas Division, from the 162nd Judicial District Court of Dallas County, Texas, and for its Notice of Removal states:

A. Removal is Timely.

1. This action, entitled *Rhonda Jean Armster and D'Area Igho-Osajie vs. Unknown Driver, Amazon Logistics, Inc., and Wanaag Transport Inc.*, Cause No. DC-22-03667 in the 162nd Judicial District Court of Dallas County, Texas was filed on April 4, 2022. Plaintiffs named Amazon Logistics, Inc. as a defendant.

2. Service of process on Amazon was completed on April 27, 2022 via its registered agent. See **Exhibit 1**, E-serve Citation and Officer's Return.

3. Removal is timely under 28 U.S.C. § 1446(b)(1) because this Notice is filed within thirty days of receipt by any defendant, through service or otherwise, of Plaintiffs' complaint.

B. Complete Diversity of Citizenship.

4. Pursuant to 28 U.S.C. § 1332(a)(1), federal subject matter jurisdiction exists here because all parties properly joined are completely diverse from the Plaintiffs, and the amount in controversy, exclusive of interest and costs, is greater than \$75,000.

5. Plaintiff Rhonda Jean Armster is an individual resident of Texas. *See Exhibit 2*, Plaintiffs' Original Petition, paragraph 2.

6. Plaintiff D'Area Igho-Osajie is an individual resident of Texas. *See Exhibit 2*, Plaintiffs' Original Petition, paragraph 3.

7. Defendant Amazon Logistics Inc. is a corporation doing business in Texas and existing under the laws of the State of Delaware, with its principal place of business in the State of Washington. *See Exhibit 2*, Plaintiffs' Original Petition, paragraph 5. For diversity purposes, Amazon Logistics Inc. is a citizen of Delaware and Washington. 28 U.S.C. § 1332(c)(1).

8. Defendant Wanaag Transport Inc. is a corporation doing business in Texas and existing under the laws of the State of Minnesota with its principal place of business in the State of Minnesota. *See Exhibit 2*, Plaintiffs' Original Petition, paragraph 6; *Exhibit 3*, State of Minnesota Secretary of State Listing for Wanaag Transport, Inc..

9. Fictitious parties are to be disregarded for purposes of determining removal jurisdiction. 28 U.S.C. § 1441(b)(1); *Weaver v. Metro. Life Ins. Co.*, 939 F.3d 618, 623 (5th Cir. 2019) (confirming that the party added under the name "Unknown Payee" was a fictitious name and should be disregarded for diversity purposes).

10. Accordingly, removal is proper under 28 U.S.C. § 1332 because there is complete diversity between Plaintiffs and Amazon. No properly named Defendant is a citizen of Texas.

C. Amount in Controversy Exceeds \$75,000.

11. Plaintiffs' case arises out of a motor vehicle accident that occurred on or about June 24, 2020 in Dallas County.

12. As a result of the motor vehicle collision, Plaintiffs Armster and D'Area Igho-Osajie allege that they suffered injuries and damages in the past and allegedly will sustain these damages into the future. *See Exhibit 2*, Plaintiffs' Original Petition, paragraph 21.

13. Plaintiffs' Original Petition seeks monetary relief over \$200,000.00 but not more than \$1,000,000.00. *See Exhibit 2*, Plaintiffs' Original Petition, paragraph 25.

14. Plaintiffs further alleges their damages to include the monetary value of physical pain, mental anguish, physical impairment, medical care expenses, out-of-pocket economic losses, loss of past earning capacity and/or lost wages, loss of enjoyment of life, consequential damages, and punitive damages. *See Exhibit 2*, Plaintiffs' Original Petition, paragraph 44.

15. Although Amazon denies that Plaintiffs are entitled to any recovery, it is clear that Plaintiffs seek an amount greater than \$75,000. Thus, the amount in controversy requirement of 28 U.S.C. § 1332(a) is satisfied.

D. Consent of Defendants.

16. As of the date of this filing, to Amazon's knowledge, Defendant Wanaag Transport, Inc. has not been served. Therefore, all defendants that have been properly joined and served consent to this removal. 28 U.S.C.S. § 1446 ("... all defendants who have been properly joined and served must join in or consent to the removal of the action.").

E. Venue is Proper.

17. Venue is proper in this district under 28 U.S.C. §1441(a) because the state court where the suit has been pending is located in this district.

F. Attachments.

17. In accordance with 28 USC § 1446 and LR 81.1 of the Local Civil Rules for the Northern District of Texas (eff. September 1, 2021), the following are attached to this notice:

- a. A completed civil cover sheet;
- b. A supplemental civil cover sheet;
- c. A copy of the docket sheet in the state court action;
- d. Each document filed in the state court action filed as a separate attachment; and
- e. A separately signed certificate of interested persons.

G. Notice to State Court.

18. Pursuant to 28 U.S.C. § 1446(d), written notice of the filing of this notice of removal will promptly be given to all parties and to the clerk of the 162nd Judicial District Court of Dallas County, Texas. A copy of the Notice to State Court of Removal that is being filed with the clerk is attached as **Exhibit 3**.

JURY DEMAND

19. Pursuant to Federal Rule of Civil Procedure 38, Amazon demands a trial by jury.

PRAYER

WHEREFORE, PREMISES CONSIDERED, Defendant Amazon Logistics, Inc. respectfully give notice that this state court action has been removed and placed on this Court's docket for further proceedings. Defendant Amazon Logistics, Inc. further requests any additional relief to which it may be justly entitled.

Respectfully submitted,

**WILSON ELSEER MOSKOWITZ
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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing document has been forwarded to counsel of record in accordance with the Federal Rules of Civil Procedure, on this the 24th day of May, 2022.

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